

REMARKS

Claims 1-22, 24-43, 45-47, 50-52, 54, 56-64, 66-68, 71-73, 75, 80, 82, 85, and 88-126 have been cancelled without prejudice or disclaimer. Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, 81, 83, 86, and 87 are currently pending. Claims 23, 44, 65 and 83 have been amended herein. Applicant respectfully submits that the amendments to the abstract and the claims are supported throughout the originally filed specification and that no new matter has been added by the instant amendments.

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

OBJECTIONS TO THE ABSTRACT

The Abstract of the Disclosure has been objected to due to informalities (See, Office Action, page 2, ¶ 4). Applicant has herein amended the Abstract to correct the informalities. As such, Applicant submits that the objections to the Abstract have been overcome.

OBJECTIONS TO THE CLAIMS

The Office Action indicates claims are objected to due to informalities. Applicant has corrected the numbering of the claim listing from the Preliminary Amendment filed July 11, 2006. Applicant has also amended claim 83 to correct the informality in claim language. As such, Applicant submits that the objections to the claims have been overcome.

CLAIM REJECTION - 35 USC § 112

Claims 23, 44, 53, 55, 74 and 76 have been rejected under 35 USC § 112, second paragraph as being indefinite. More specifically, the term "substantially simultaneously" has been alleged to be indefinite as, "[t]he boundaries for being substantially simultaneous are not known." (See, Office Action, page 2, ¶ 7). Applicant respectfully traverses the rejections and submits that one of ordinary skill in the art would understand 'substantially simultaneously' as recited within the context of the claims.

According to various embodiments of the system, the claimed versatile financial transactions (which are hierarchical, comprising subcomponent transactions) may be effectuated either simultaneously as a 'one click' transaction discussed by way of example only in ¶ [0063] or in parts. As recited in the claims, a versatile financial transactions (which are hierarchical, comprising subcomponent transactions). In effectuating the versatile financial transactions (which are hierarchical, comprising subcomponent transactions) there may be systemization hardware processing constraints, and based on the configuration of the hardware (e.g., more or less memory, slower or faster CPUs, speed of database access and processing of selects and joins (e.g., ¶ [0063]), communication network speed and bandwidth constraints, etc.) there will be variances in how fast subcomponents and/or transactions may be processed. In some instances, from the user's perspective although the versatile financial transactions (which are hierarchical, comprising subcomponent transactions) may appear simultaneous as a one-click transaction, they are actually processed substantially simultaneously. In another example, the subcomponents are processed as a singular and simultaneous versatile financial transaction (e.g., see ¶

[0076] re: population and submission of an order entry table). As such, Applicant submits that one of ordinary skill in the art would understand the term as recited in the claims and therefore, request withdrawal of this ground of rejections.

CLAIM REJECTION - 35 USC § 101

Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79 and 81 have been rejected under 35 USC § 101 as allegedly being directed to non-statutory subject matter. More specifically, it is alleged in the Office Action that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (See, Office Action, page 4, ¶ 1). Applicant respectfully traverses the § 101 rejection and submits that the pending claims are directed to statutory subject matter in accordance with 35 USC § 101.

Applicant submits that the pending claims are either 'tied to another statutory class' or 'transform underlying subject matter to a different state or thing.' By way of example only, independent claims 23, 44 and 65 discuss various methods of generating versatile financial transactions (which are hierarchical, comprising subcomponent transactions). Applicant respectfully submits that VFMTGI allows for the specification and allocation of the claimed versatile financial transactions (which are hierarchical, comprising subcomponent transactions), e.g., equity elements involved in the underlying versatile financial transactions (which are hierarchical, comprising subcomponent transactions), where VFMTGI effects and executes a real world transaction in the marketplace resulting in a transformed, new and heretofore unavailable composite product.

Furthermore, by way of example only, independent claim 83 recites, "In memory, an interaction interface that is invoked by a processor, comprising instruction signals in the memory, wherein the instruction signals are issued by the processor to provide..." As independent claim 83 recites elements including a memory, a processor, and a display area to display the mechanisms, Applicant submits that the elements of the claim are patentable subject matter.

Accordingly, for at least these reasons, Applicant submits that independent claims 23, 44, 65 and 83, as well as the claims directly or indirectly dependent therefrom, are directed to statutory subject matter and withdrawal of this ground of rejections is requested, and that the claims be allowed.

CLAIM REJECTION - 35 USC § 102

Claims 83, 86 and 87 have been rejected under 35 USC § 102(e) as being anticipated by Himmelstein (US Patent No. 6,993,511). Applicant respectfully traverses the rejection and submits that Himmelstein does not discuss each element of independent claim 83 or claims 86 and 87 which depend therefrom.

More specifically, independent claim 83 recites, *inter alia*:

In memory, an interaction interface that is invoked by a processor, comprising:
 instruction signals in the memory, wherein the instruction signals are issued by the processor to provide:
 a selection interface mechanism to specify a desired versatile financial transaction that is hierarchical having a plurality of subcomponent transactions

Applicant submits that Himmelstein does not discuss at least a selection interface to specify a desired versatile financial transaction (which are hierarchical, comprising subcomponent transactions), as claimed in independent claim 83.

The Office Action indicates Himmelstein anticipates independent claim 83's "desired versatile financial transaction" based on Himmelstein's discussion related to Figures 5A-6 and column 9, lines 23-31. (See, Office Action, page 5, ¶ 3). However, Himmelstein in column 9, lines 23-31 simply discusses "barter orders may be created for stock and Himmelstein Option for stock barterers as illustrated...where the barterer is prompted through each step of the barter order creation process." Applicant respectfully submits that creating a barter order where shares of one stock are exchanged for shares of another stock is not analogous to "a selection interface mechanism to specify a desired versatile financial transaction that is hierarchical having a plurality of subcomponent transactions..." as recited in independent claim 83. There is no notion of requisite subcomponents to an overall root versatile financial transaction in Himmelstein. For example, a synthetic butterfly hedge (see ¶ [0055] in the original specification) is a type of versatile financial transaction having "four option transactions at the same expiration date and three different strike prices", without its hierarchically related "children" option subcomponent transactions, this would not be a synthetic butterfly hedge type of versatile financial transaction; i.e., the relationship, in this example, between the root/parent versatile financial transaction of a synthetic butterfly hedge and its children subcomponents is a hierarchical one. Depending on the type of versatile financial transaction desired, the hierarchy can be of any form or structure. Himmelstein simply does not teach versatile financial transactions (which are hierarchical, comprising subcomponent transactions). As such, Applicant submits that independent claim 83,

as well as claims 86 and 87 which depend therefrom, are not anticipated by Himmelstein.

Therefore, Applicant respectfully requests withdrawal of this ground of rejections and allowance of the claims.

Applicant respectfully requests that if rejection is maintained, that the Examiner provide additional clarification regarding how Himmelstein's barter order creation would allegedly anticipate versatile financial transactions (which are hierarchical, comprising subcomponent transactions) as claimed.

CLAIM REJECTION - 35 USC § 103

Claims 23, 44 and 65 have been rejected under 35 USC § 103(a) as being unpatentable over Himmelstein, in view of Nafeh, et al. (US Patent Publication No. 20080040257). Similarly, the dependent claims 48, 49, 55, 66, 69, 70, 74, 76, 77, 78, 79 and 81, which are directly or indirectly dependent on independent claims 44 and 65, respectively, have also been rejected under § 103 based on Himmelstein, in view of Nafeh. Applicant respectfully traverses this rejection and submits that a *prima facie* case of obviousness has not been established and that the pending claims are patentably distinct from the cited references, taken alone or in combination, for at least the following reasons.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

- (i) the relevant teachings of the prior art relied upon,
- (ii) the differences in the claim over the applied references,
- (iii) the proposed modification of the applied references to arrive at the claimed subject matter, and
- (iv) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicant submits that the rejections in the pending Office Action do not establish each of these requirements.

Applicant submits that, the rejections in July 22, 2008 Office Action do not establish at least the first two elements of a *prima facie* case of obviousness. More specifically, the Office Action indicates Himmelstein's "(multi-order barter transactions [column 3, lines 4-9] and [Figures 2, 6, 9A])" is analogous to independent claim 23's hierarchical...subcomponent transactions. More specifically, it is alleged that Himmelstein's multi-order barter transactions facilitate the "use [of] the system as an intermediary [that] allows for interrelated orders." (See, Office Action, page 6, ¶ 4).

In contrast to the claimed elements, Himmelstein discusses an option for facilitating 'multi-order barter transactions' (See, Col. 3, lines 5-10). However, Applicant respectfully submits that simply implementing a barter system that can facilitate more than one order from a user does not 'interrelate' orders as alleged or render obvious versatile financial transactions (which are hierarchical, comprising subcomponent transactions) as recited in independent claims 23, 44, or 65, respectively. Furthermore, Applicant submits that Nafeh's method and apparatus for "risk hedging, contract trading system" as discussed in Nafeh's ¶ [0027]-[0045] do not remedy at least the deficiency identified above in Himmelstein.

As such, Applicant submits that independent claims 23, 44 and 65 are not anticipated or rendered obvious by Himmelstein and/or Nafeh, taken alone or in combination. Similarly, Applicant submits claims 48, 49, 53, 55, 66, 68-70, 74, 76-79, and 81, which are directly or indirectly dependent on independent claims 44 or 65 respectively, are also not anticipated or

rendered obvious by Himmelstein and/or Nafeh for at least similar reasons. Accordingly, Applicant respectfully requests withdrawal of this ground of rejections.

Consequently, the reference(s) cited and/or any official notice taken by the office action do not result in the claimed invention, there was/is no motivation for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the applicant respectfully submits that the supporting remarks and claimed inventions, claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, 81, 83, 86, and 87, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, applicant believes that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements were not discussed, applicant does not concede that any such elements are found in the prior art and/or within any official notice taken in the office action, and as such, applicant asserts that all such remaining and not discussed claim elements, all, also are distinguished over the prior art, including any official notice taken in the office action, and explicitly reserves the opportunity to more particularly remark and distinguish such remaining claim elements at a later time should it become necessary. Further, any remarks that were made in response to an Examiner objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Examiner objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements,

and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, applicant does not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, applicant respectfully requests allowance, and the reconsideration and withdrawal of the rejection(s) and/or objection(s).

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17952-002US1.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17952-002US1

Respectfully submitted,
CHADBOURNE & PARKE, L.L.P.

Dated: January 22, 2009

B /Walter G. Hanchuk/
Walter G. Hanchuk Reg No. 35,179

Correspondence Address:

Chadbourne & Parke LLP
30 Rockefeller Plaza
New York, NY 10112
212-408-5100 Telephone
212-541-5369 Facsimile

